

Hither & Thither

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The Federal Employees' Compensation Act and You

*By Gary W. Helmer from
information contained within
OWCP Publication CA-810*

The Federal Employees' Compensation Act (FECA) provides workers' compensation coverage to over three million Federal and Postal Service workers including wage replacement, medical, and vocational rehabilitation benefits for work-related injuries and occupational diseases.

The FECA provides monetary compensation, medical costs and assistance, vocational rehabilitation, retention rights, burial expenses and survivor benefits, and exclusive remedy. It was never intended to be a "disability retirement" program and has been subject to its fair share of abuse and outright fraud.

The Department of Labor (DOL) has authority under the FECA to administer the provisions of the law. The DOL further delegates that authority to the Employment Standards Administration (ESA) for oversight and the ESA established the Office of Workers' Compensation Programs (OWCP) to manage the FECA.

OWCP is the exclusive authority for all claims under the provisions of the FECA. Its primary mission is to provide timely and fair decisions on all claims, manage the claim upon acceptance, pay all benefits allowed by the law, and to assist employees to return to work.

The burden of proof of injury or illness rests with the employee. The employee is responsible to ensure that the proper documents are submitted and that the data on all documents are factual evidence of the claim. It is essential that the employee submit all medical evidence to support the claim and to keep the agency (Army) and OWCP advised of any changes in his/her medical status. Adherence to the FECA and related regulations is mandatory. The primary concept of the FECA is to get the employee back to work in the shortest time possible. Therefore, it is required that the employee seek employment or return to work as soon as medically able.



Supervisors play a key role in their responsibilities under the FECA to the agency and to the employee. First, it is essential that the supervisor enforce established safety regulations, policies, and practices – prevention is the first step in a healthy work force. This instills a positive motivation in the employee, clarifies the rules, and signifies management's dedication to ensuring a safe and healthful working environment.

Timely and accurate completion of all forms necessary to process a claim is imperative. Supervisors must report

accidents promptly and then take steps to ensure safeguards are put into place to prevent repeat occurrences in the future.

Beyond the typical responsibilities a supervisor has is the need to assist the employee in returning to work as soon as possible. Granted, not all cases will be able to accomplish this, but if the injury is minor or expected to be short-term, the supervisor must be proactive in getting the employee back to work. Continual contact with the employee will go a long way in motivating the person to heal and return to active employment.

The supervisor, while supportive and cognizant of the employees' needs, must also realize that he/she represents the Army's interest in the case. As such, the supervisor has the moral responsibility to assure the agency that the alleged injury/illness is legitimate. Although not a medical professional, the supervisor must look at the events surrounding the injury/illness and determine if the case needs to be disputed or not. Should the need arise to challenge a case; the supervisor must be prepared to support his/her claims, gather all facts, and present the case accordingly. Should the supervisor find it necessary to challenge the claim, OWCP will rule on the justification of benefits.

Medical Benefits

As a rule, should an employee be injured or become ill and file a claim for benefits, they are entitled to seek medical attention such as initial examination,

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diagnostic tests, treatment, appliances and medical supplies, housing or vehicle modifications, and transportation costs. Claims are evaluated to determine the extent of benefits authorized and to initially ascertain the length benefits might need to be paid. Fees and medical remuneration can be paid indefinitely if needed and approved, and may be unlimited as well.

Continuation of Pay

In most cases the employee may receive regular pay for up to 45 calendar days without charge to sick or annual leave accounts or disability and/or medical appointments due to a traumatic injury.

Other Types of Earnings Replacement

Some employees might be authorized to receive temporary, tax-free, total disability payments due to their loss of wage-earning capacity if determined fully disabled. Attendant allowances are often paid for totally disabled employees to aid in feeding, clothing, and bathing. Scheduled awards would typically be paid to the employee in the event of a loss of limb, organ, or function.

Burial expenses of \$800 are authorized and a one-time payment of \$200 is made to the surviving family to offset administrative costs. Many employees have opted to pay into a survivor benefit plan to ensure compensation payments to surviving beneficiaries.

The FECA also authorizes a number of benefits designed to

assist the employee in returning to a fully functioning capacity. These include: nurse intervention and quality case management programs; vocational training; job placement assistance; and assisted re-employment programs.

Injuries/Illnesses

A traumatic injury (TI) is defined as a wound or other condition of the body caused by external forces, including stress or strain. The injury must be identifiable as to time and place of occurrence and member/limb or function of the body affected. It must be caused by a specific event or incident or series of events or incidents occurring within a single day or work shift.

An occupational disease (OD) is a condition which is produced by continued or repeated exposure to elements of the work environment such as noxious substances, damaging noise levels, or repetitive work activities/movements occurring over a period of more than one workday or shift.

Requirements for Entitlement

All of the following must be met to be entitled to claim benefits under the FECA.

- The injury/illness must have occurred incidental to the employees' work shift or in the process of the work shift.
 - The employee has three years to file a claim to receive compensation – TI runs from the date of injury and OD begins from the date of last exposure or date the

employee became aware of the condition.

- Of course, the employee must be a bona fide Federal employee or Postal Service worker – permanent or temporary.
 - This includes volunteers performing personal services similar to Federal workers. Independent contractors and non-appropriated fund employees are not covered under the FECA.
- The fact of injury requirement must be met if the employee certifies the injury/illness occurred as a result of his/her employment.
 - Factual information required includes the actual occurrence of an accident, incident, or exposure of time, place, and in the manner alleged. Medical information required is the determination as to whether a medical condition is diagnosed in connection with the accident, incident, or exposure.
- Arises out of employment (AOE) – Did the injury occur because of the employment or because of a personal situation or condition?
- Course of employment (COE) – Did the injury/exposure occur while at work?
- Performance of duty (POD)
 - Met when the employee is on industrial premises performing assigned duties or engaging in activities that are reasonable incidents of employment.

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- Off premises POD is met while performing official duties, participating in informal recreational activities on premises during legitimate breaks, occasionally while at horseplay, and unexplained falls.
- POD may or may not be met as a result of assault or at formal and/or off-premises recreational injuries. The degree of agency support and benefit must first be derived.
- POD is not met when the injury/illness occurs during travel to/from work, taking significant deviations, as the result of an idiopathic fall to a supporting surface, or with statutory exclusions such as: willful misconduct; intoxication; intent to injure oneself or others; and hard/difficult to prove.
- The diagnoses surrounding the injury/illness must be related to the actual injury/illness as a direct cause, aggravation, acceleration, and/or precipitation.

- Recurrence - A recurrence is defined as a spontaneous return of symptoms and/or disability without new or intervening causes.

Appeal Rights

Should a claim be denied, the employee would be entitled to a hearing if requested within 30 calendar days and before any reconsideration. The employee may also request a

reconsideration of the claim within one year, but only if new evidence or legal argument is presented. Finally, an appeal may be requested within 90 calendar days, but no new evidence can be presented.

Program Personnel

Typically, each installation has a FECA administrator or Installation Compensation Program Administrator (ICPA) assigned to the Civilian Personnel Advisory Center (CPAC), an occupational physician, and an occupational nurse. The installation safety office would also assign a safety manager to the FECA program. Many installations now have investigators assigned to review cases and seek out potential fraud or abuses of the FECA.

Claims Categories

- Long-Term - Deemed incapable of performing any type of work, deaths.
- Periodic - Receive recurring compensation payments and may be able to return to gainful employment.
- Daily - Considered short-term in nature and generally return to duty soon.

Types of Injuries

Typical injuries include strains and sprains (back strains most common), hearing loss (very expensive), and repetitive motion injuries such as Carpal Tunnel Syndrome.

Key Personnel

Aside from the administrators of the FECA program, commanders/directors,

supervisors, and employees are key to the success of the FECA program.

Actions these personnel can take are organization evaluations, increase safety awareness through training and practices, reduce stressful environments/relationships, and avoid excessive overtime. Complementing training with safety-related courses and honesty initiatives would greatly enhance employee safety and satisfaction. Suspicious claims need to be questioned or disputed, and investigated.

Fraud, Abuse, and False Claims

Fraud occurs when someone knowingly lies with the intent to obtain some benefit or advantage or to cause some benefit that is due to be denied. Where there is no lie, there may be abuse but no fraud.

Abuse is any practice that uses the system in a way contrary to either the intended purpose of the system or the law – some behavior may not be criminal.

False claims occur when someone knowingly or negligently makes false statements to obtain money from a government agency.

Claimant fraud occurs when the employee provides false information regarding the degree of disability, false information about the circumstances of injury/illness, or has made false material declarations about rights to continued or specific benefits.

Applicant fraud happens when the employee knowingly makes

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false representation with the intent to obtain benefit material to the claim.

Billing for examinations or treatments never completed, billing for more time than actually provided, duplicate billing, not refunding duplicate payments, allowing untrained persons to perform examinations, having patients sign in on a log several times during the same visit, and specialty referral unrelated to claimed injury occurring are all examples of billing/provider fraud.

Attorneys knowingly assisting clients in a false claim, knowingly concealing third party recoveries, and committing related criminal acts are aiding in the commission of fraud.

Spotting Fraud/Abuse

Spotting fraud/abuse can be difficult but claims may be suspicious if the claimant has/is:

- never home or available,
- an unlisted telephone number,
- filed a claim that coincides with layoffs or closings,
- active in sports,
- another job,
- injured with no witness(es),
- relocated out of area,
- made excessive demands,
- a history of filing claims, or
- claimed a soft-tissue injury to a previous disability.

Prosecuting Fraud

Title 31, United States Code (USC), Chapter 37, False Claims Act and False Claims Act Amendments of 1986; Title 18, USC, Section 1920, False Statements Involving Workers' Compensation Benefits; and

DOL, Office of Inspector General (OIG) are all integral to the investigation and prosecution of fraud/abuse.

Fraud is wrong, criminal, expensive, damaging, difficult to investigate, and all too often overlooked. Take time to accurately apply and request benefits under the provisions of the FECA to ensure that you are justly compensated for benefits both earned and deserved.
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Frequently Asked Questions About the Federal Employees' Compensation Act

By Ms. Sharon Roth of the Hanau, Civilian Personnel Advisory Center (CPAC) from information contained within OWCP Publication CA-810

Q: What is FECA?

A: FECA is the Federal Employees' Compensation Act. FECA is managed by the Office of Workers' Compensation (OWCP) at the Department of Labor. FECA only applies to Appropriated Fund U.S. Citizens. Local Nationals and NAF employees each have their own programs to compensate employees who are injured on the job.

Q: Can my employee seek compensation through any other program or method?

A: Benefits provided under FECA constitute the sole remedy against the United States for work-related injury or death. This means that a Federal employee or surviving dependent is not entitled to sue

the United States or recover damages for a work related injury or death under any other law.

Q: What kinds of injuries are covered?

A: Any injury that results from an employee's performance of their duties will be covered, even if the task being performed is not a duty that is directly required by the job.

For example, an employee who slips and twists an ankle in a restroom at the worksite would be covered. An employee who is driving back from a staff meeting to the office is also covered, as is an employee who falls on ice in the government's parking lot on the way in to work. However, a person driving to or from work on a typical day is not covered, as they are not yet on the clock, or within an environment controlled by the employer.

Q: How does FECA classify medical conditions?

A: There are two classes of FECA claims. The first is a traumatic injury; that is an injury which occurs within a single workshift. Any other injury is classified as an occupational disease. An occupational disease may be a result of one week of exposure or twenty years.

Q: What do I do if my employee comes to me and says he/she has been injured on the job?

A: If the employee has a serious injury, the first step is to obtain medical care. The supervisor should fill out Form CA-16 as

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soon as possible. The CA-16 must be filled out before the employee seeks medical treatment. The only exception is an emergency so critical that the employee's health would be put at risk if you take the time to fill out the form first. If the employee seeks medical treatment without the CA-16, OWCP will reimburse the employee for the medical expenses if the claim is accepted.

Q: What do I do if my employee wants to see his/her own doctor?

A: The employee can opt for his/her personal doctor. However, it is important for the employee to understand that all documents should be submitted in English. Any documentation written in a language other than English may delay the claim (and therefore reimbursement) for more than a month. Also, it is important that the employee selects a doctor who understands the forms. While some systems may have only two categories for employees (able to work and unable to work) the FECA program has a very important middle stage (light duty). If an employee capable of light duty is classified as unable to work, the employee may lose weeks or even months of pay. Please ensure that your employee makes a well-informed decision regarding their medical provider; but ultimately the decision does belong to the employee.

Q: What happens once the medical emergency is resolved?

A: If the injury occurred during one work shift, a Form CA-1 must be completed. If the injury

or disease was the result of more than one day of exposure, a Form CA-2 should be completed. CA-1s and CA-2s should be filled out using the Electronic Data Interchange (EDI). There is no password required to access this system. However, the form will not be processed unless a signed original copy of the form is faxed to the CPAC. Forms should be addressed to your local CPAC.

Q: During his/her recovery from a work-related injury, what is the employee's pay status?

A: Employees who are injured on the job should be placed on administrative leave for the date of injury (code LU on the timecard). If the employee is not able to work following the injury, then he/she may be eligible for Continuation of Pay (COP) for up to forty-five days. The employee can be placed on COP following the injury, and then later changed to a form of leave if the claim is denied by OWCP. COP can not exceed forty-five days for the same injury, and it must begin within forty-five days of the date of injury. COP may be used intermittently for doctor's appointments related to the workplace injury. However, COP may not occur after forty-five calendar days have passed from the first date COP was used, regardless of how many, or how few, of those days the employee was absent. If the employee is out for only part of a day, then those hours should be coded as COP (LT) and the other hours as regular time. If you have any questions about the use of COP, please contact your servicing specialist.

Q: What if I do not believe my employee was injured on the job? Do I still need to approve COP?

A: There are only a few conditions under which a supervisor may deny COP, and these are rare. If you wish to dispute the employee's claim, you may controvert it, but as long as the forty-five days have not passed, the agency will pay COP pending the decision from OWCP.

Q: What if my employee does not provide medical documentation to support the absence? Do I still need to grant COP?

A: The employee has ten calendar days to provide medical documentation stating that the employee is fully disabled, and can not perform even light duties. If, after ten days, the employee has not provided this information, COP should be terminated until such time as the employee does provide the documents. COP would then resume.

Q: Is my employee eligible for COP if he/she has an occupational disease?

A: Employees can not receive COP for an occupational disease. It is a program that applies only to traumatic injuries.

Q: How do I controvert a COP claim?

A: On the CA-1 in EDI, box 36 asks you if wish to controvert COP. In this box, you must explain the reason why you feel COP is not appropriate.

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Q: What is the difference between controverting COP and challenging a claim?

A: Controverting COP means telling OWCP that the supervisor does not believe the agency should pay for continuation of pay while the employee recovers. However, COP can not last more than 45 days. Challenging a claim means telling OWCP that the agency should not have to pay any compensation for the alleged injury. To challenge a claim please ensure that on box 38 of the EDI form CA-1, you click on "no" and explain why you feel the claim should not be paid.

Q: What happens if I don't file a challenge to the claim?

A: OWCP will accept an employee's claim if the agency does not challenge it. Even if there is almost no medical evidence to support the claim, the employee's word can be considered sufficient evidence unless we challenge the claim. So, please do not ignore a claim just because you may find it without merit. It is OWCP who will judge the matter, and they frequently support the employee's claims.

Q: Can I challenge a decision made by OWCP?

A: No. If the employee does not like a decision by OWCP they can use one, or all, of three separate routes for appeal. The agency has no right to appeal or review. If we lose the argument, we lose. That is why it is vital for us to challenge claims at the start of the process. It is our only opportunity.

Q: Should I challenge every claim?

A: The goal is to be a responsible caretaker of taxpayer dollars. If in doubt, then challenge the claim and let OWCP be the judge. But, if there is no question about government responsibility, then help the government take care of the employee by doing everything we can to assist the employee to get the benefits he/she deserves.

Q: Does it really matter if an employee gets FECA benefits that they should not have received?

A: If a FECA claim is accepted, the agency must pay up to 75% of the person's salary for as long as they are unable to work, plus related medical expenses. If the employee suffers a fatality connected to the injury, then we must pay benefits to the dependents.

Please bear in mind that many conditions can get worse with age. Something that looks minor at first can grow to become fully debilitating. Since the start of the process is the only time we can challenge the claim, we need to challenge it from the start.

Q: Am I permitted to discourage my employees from filing a claim?

A: No. It is illegal to interfere with the filing of a claim. Under Title 18 USC Section 1922, a person could be fined or imprisoned for up to one year for attempting to stop or delay a claim. In other words, we can challenge or controvert a claim,

but we do not interfere with the filing of a claim.

Q: What do I do if the employee's doctor states the employee is only partially disabled and can perform light duties?

A: Provide light duties. The agency will have to pay the employee's salary, whether we pay for light duties, or pay the employee to sit at home. Therefore, any productive work that can be performed should be assigned to the employee. However, it is very important that you observe the medical restrictions itemized by the medical provider.

Q: What if I have no light duties to offer?

A: Find another branch, division, or directorate that can provide duties commensurate with the employee's medical limitations. It is much easier to bring the employee back to work in their regular position if they have remained in the habit of reporting for work every day. And again, we are paying the employee either way, so it is in the interest of the government to obtain useful services in exchange.

Q: Is there anyone else I need to notify that an accident has occurred?

A: In addition to filling out the Form CA-1, you should inform the Safety Officer that an accident has occurred, so that the Safety Office can address any possible causes to prevent future accidents.

If you have any questions about your obligations under the

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Federal Employees' Compensation Act, please contact your servicing specialist.

Useful Websites

Injury Compensation for Federal Employees Publication CA-810

<http://www.nalc.org/depart/owcp/CA810.html>

United States Army Safety Center, Work and Off-Duty Safety

<http://safety.army.mil/pages/sbo/>

Department of Defense, Lost Time Due to Work-Related Injuries

<https://www.dmdc.osd.mil/ltwi/owa/ltwi>

United States Army Center for Health Promotion and Preventive Medicine.

Occupation Medicine Program
<http://usachppm.apgea.army.mil/doem/OMP.aspx>

United States Army Center for Health Promotion and Preventive Medicine, Ergonomics Program

<http://chppm-www.apgea.army.mil/ergopgm/ergohome.htm>

United States Army Center for Health Promotion and Preventive Medicine, Department of Defense Ergonomics Working Group

<http://chppm-www.apgea.army.mil/ergowg/default.htm>

United States Army Center for Health Promotion and Preventive Medicine, Army Medical Surveillance Activity

http://amsa.army.mil/AMSA/amsa_home.htm

The HSE Group, Safety Alerts Page

<http://www.hseggroup.com/hse/text/hsealert.htm>

Occupational Safety and Health Administration, Statistics and Data

<http://www.osha.gov/oshstats/index.ex.html>

Occupational Safety and Health Administration, Technical Links to Safety and Health Topics

<http://www.osha.gov/SLTC/index.html>

Occupational Safety and Health Administration, 29 CFR, Chapter 15, Occupational Safety and Health

<http://www4.law.cornell.edu/uscode/29/ch15.html>

Occupational Safety and Health Administration, Ergonomics

<http://www.osha.gov/SLTC/ergonomics/>

Laws and Regulations Governing FECA

http://www.dol.gov/dol/allcfr/ESA/Title_20/Part_10/toc.htm

<http://www4.law.cornell.edu/uscode/de/5/plilspGch81.html>

An Employee's Guide When Injured at Work

<http://www.cpms.osd.mil/icuc/empinj.htm>

A Supervisor's Guide When an Employee is Injured at Work

<http://www.cpms.osd.mil/icuc/supinj.htm>

Contact the Injury Compensation Program Administrator (ICPA) at your local CPAC for additional information.

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A Parting Thought

"It's okay to think about what you want to do until it's time to do what you were meant to do."

Thanks!